

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**Nicholas Eugene Nomicos, M.D.**

**Case No. 800-2016-026720**

**Physician's and Surgeon's  
Certificate No. A 49055**

**Respondent**


**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on June 7, 2019.**

**IT IS SO ORDERED: May 8, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

  
\_\_\_\_\_  
**Kristina D. Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 MICHAEL C. BRUMMEL  
Deputy Attorney General  
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California Department of Justice  
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8 *Attorneys for Complainant*

10 **BEFORE THE**  
11 **MEDICAL BOARD OF CALIFORNIA**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **NICHOLAS EUGENE NOMICOS, M.D.**  
16 **14425 Spyglass Cir.**  
**Chowchilla, CA 93610-7907**

17 **Physician's and Surgeon's Certificate**  
18 **No. A 49055**

19 Respondent.

Case No. 800-2016-026720

OAH No. 2019010532

17 **STIPULATED SETTLEMENT AND**  
18 **DISCIPLINARY ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
25 of California (Board). She brought this action solely in her official capacity and is represented in  
26 this matter by Xavier Becerra, Attorney General of the State of California, by Michael C.  
27 Brummel, Deputy Attorney General.

28 ///



1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation  
3 No. 800-2016-026720, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest  
8 those charges.

9 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
10 discipline and he agrees to be bound by the Board's probationary terms as set forth in the  
11 Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Medical Board of California.  
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
15 Board of California may communicate directly with the Board regarding this stipulation and  
16 settlement, without notice to or participation by Respondent or his counsel. By signing the  
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
21 action between the parties, and the Board shall not be disqualified from further action by having  
22 considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
25 signatures thereto, shall have the same force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
27 the Board may, without further notice or formal proceeding, issue and enter the following  
28 Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 49055 issued  
3 to Respondent Nicholas Eugene Nomicos, M.D. is revoked. However, the revocation is stayed  
4 and Respondent is placed on probation for three (3) years on the following terms and conditions.

5 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this  
6 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee  
7 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours  
8 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at  
9 correcting any areas of deficient practice or knowledge and shall be Category I certified. The  
10 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
11 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
12 completion of each course, the Board or its designee may administer an examination to test  
13 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65  
14 hours of CME of which 40 hours were in satisfaction of this condition.

15 2. **MEDICAL RECORD KEEPING COURSE.** Within 60 calendar days of the effective  
16 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in  
17 advance by the Board or its designee. Respondent shall provide the approved course provider  
18 with any information and documents that the approved course provider may deem pertinent.  
19 Respondent shall participate in and successfully complete the classroom component of the course  
20 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully  
21 complete any other component of the course within one (1) year of enrollment. The medical  
22 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing  
23 Medical Education (CME) requirements for renewal of licensure.

24 A medical record keeping course taken after the acts that gave rise to the charges in the  
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
26 or its designee, be accepted towards the fulfillment of this condition if the course would have  
27 been approved by the Board or its designee had the course been taken after the effective date of  
28 this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the effective date of this Decision, Respondent shall enroll in a professional boundaries program approved in advance by the Board or its designee. Respondent, at the program's discretion, shall undergo and complete the program's assessment of Respondent's competency, mental health and/or neuropsychological performance, and at minimum, a 24 hour program of interactive education and training in the area of boundaries, which takes into account data obtained from the assessment and from the Decision(s), Accusation(s) and any other information that the Board or

1 its designee deems relevant. The program shall evaluate Respondent at the end of the training  
2 and the program shall provide any data from the assessment and training as well as the results of  
3 the evaluation to the Board or its designee.

4 Failure to complete the entire program not later than six (6) months after Respondent's  
5 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees  
6 in writing to a later time for completion. Based on Respondent's performance in and evaluations  
7 from the assessment, education, and training, the program shall advise the Board or its designee  
8 of its recommendation(s) for additional education, training, psychotherapy and other measures  
9 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with  
10 program recommendations. At the completion of the program, Respondent shall submit to a final  
11 evaluation. The program shall provide the results of the evaluation to the Board or its designee.  
12 The professional boundaries program shall be at Respondent's expense and shall be in addition to  
13 the Continuing Medical Education (CME) requirements for renewal of licensure.

14 The program has the authority to determine whether or not Respondent successfully  
15 completed the program.

16 A professional boundaries course taken after the acts that gave rise to the charges in the  
17 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
18 or its designee, be accepted towards the fulfillment of this condition if the course would have  
19 been approved by the Board or its designee had the course been taken after the effective date of  
20 this Decision.

21 If Respondent fails to complete the program within the designated time period, Respondent  
22 shall cease the practice of medicine within three (3) calendar days after being notified by the  
23 Board or its designee that Respondent failed to complete the program.

24 5. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days  
25 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment  
26 program approved in advance by the Board or its designee. Respondent shall successfully  
27 complete the program not later than six (6) months after Respondent's initial enrollment unless  
28 the Board or its designee agrees in writing to an extension of that time.

1 The program shall consist of a comprehensive assessment of Respondent's physical and  
2 mental health and the six general domains of clinical competence as defined by the Accreditation  
3 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to  
4 Respondent's current or intended area of practice. The program shall take into account data  
5 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),  
6 Accusation(s), and any other information that the Board or its designee deems relevant. The  
7 program shall require Respondent's on-site participation for a minimum of three (3) and no more  
8 than five (5) days as determined by the program for the assessment and clinical education  
9 evaluation. Respondent shall pay all expenses associated with the clinical competence  
10 assessment program.

11 At the end of the evaluation, the program will submit a report to the Board or its designee  
12 which unequivocally states whether the Respondent has demonstrated the ability to practice  
13 safely and independently. Based on Respondent's performance on the clinical competence  
14 assessment, the program will advise the Board or its designee of its recommendation(s) for the  
15 scope and length of any additional educational or clinical training, evaluation or treatment for any  
16 medical condition or psychological condition, or anything else affecting Respondent's practice of  
17 medicine. Respondent shall comply with the program's recommendations.

18 Determination as to whether Respondent successfully completed the clinical competence  
19 assessment program is solely within the program's jurisdiction.

20 If Respondent fails to enroll, participate in, or successfully complete the clinical  
21 competence assessment program within the designated time period, Respondent shall receive a  
22 notification from the Board or its designee to cease the practice of medicine within three (3)  
23 calendar days after being so notified. The Respondent shall not resume the practice of medicine  
24 until enrollment or participation in the outstanding portions of the clinical competence assessment  
25 program have been completed. If the Respondent did not successfully complete the clinical  
26 competence assessment program, the Respondent shall not resume the practice of medicine until a  
27 final decision has been rendered on the accusation and/or a petition to revoke probation. The  
28 cessation of practice shall not apply to the reduction of the probationary time period.

1           6. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this  
2 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
3 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose  
4 licenses are valid and in good standing, and who are preferably American Board of Medical  
5 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
6 relationship with Respondent, or other relationship that could reasonably be expected to  
7 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
8 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
9 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

10           The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
11 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the  
12 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed  
13 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role  
14 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees  
15 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the  
16 signed statement for approval by the Board or its designee.

17           Within 60 calendar days of the effective date of this Decision, and continuing throughout  
18 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall  
19 make all records available for immediate inspection and copying on the premises by the monitor  
20 at all times during business hours and shall retain the records for the entire term of probation.

21           If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective  
22 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
23 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
24 shall cease the practice of medicine until a monitor is approved to provide monitoring  
25 responsibility.

26           The monitor(s) shall submit a quarterly written report to the Board or its designee which  
27 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
28 are within the standards of practice of medicine, and whether Respondent is practicing medicine

1 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
2 that the monitor submits the quarterly written reports to the Board or its designee within 10  
3 calendar days after the end of the preceding quarter.

4 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
5 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
6 name and qualifications of a replacement monitor who will be assuming that responsibility within  
7 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
8 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
9 notification from the Board or its designee to cease the practice of medicine within three (3)  
10 calendar days after being so notified. Respondent shall cease the practice of medicine until a  
11 replacement monitor is approved and assumes monitoring responsibility.

12 In lieu of a monitor, Respondent may participate in a professional enhancement program  
13 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
14 review, semi-annual practice assessment, and semi-annual review of professional growth and  
15 education. Respondent shall participate in the professional enhancement program at Respondent's  
16 expense during the term of probation.

17 7. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
18 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
19 Chief Executive Officer at every hospital where privileges or membership are extended to  
20 Respondent, at any other facility where Respondent engages in the practice of medicine,  
21 including all physician and locum tenens registries or other similar agencies, and to the Chief  
22 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
23 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
24 calendar days.

25 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

26 8. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
27 NURSES. During probation, Respondent is prohibited from supervising physician assistants and  
28 advanced practice nurses.

1           9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
2 governing the practice of medicine in California and remain in full compliance with any court  
3 ordered criminal probation, payments, and other orders.

4           10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
5 under penalty of perjury on forms provided by the Board, stating whether there has been  
6 compliance with all the conditions of probation.

7           Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
8 of the preceding quarter.

9           11. GENERAL PROBATION REQUIREMENTS.

10          Compliance with Probation Unit

11          Respondent shall comply with the Board's probation unit.

12          Address Changes

13          Respondent shall, at all times, keep the Board informed of Respondent's business and  
14 residence addresses, email address (if available), and telephone number. Changes of such  
15 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
16 circumstances shall a post office box serve as an address of record, except as allowed by Business  
17 and Professions Code section 2021(b).

18          Place of Practice

19          Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
20 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
21 facility.

22          License Renewal

23          Respondent shall maintain a current and renewed California physician's and surgeon's  
24 license.

25          Travel or Residence Outside California

26          Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
27 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
28 (30) calendar days.

1 In the event Respondent should leave the State of California to reside or to practice,  
2 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
3 departure and return.

4 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
5 available in person upon request for interviews either at Respondent's place of business or at the  
6 probation unit office, with or without prior notice throughout the term of probation.

7 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
8 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
9 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
10 defined as any period of time Respondent is not practicing medicine as defined in Business and  
11 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
12 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
13 Respondent resides in California and is considered to be in non-practice, Respondent shall  
14 comply with all terms and conditions of probation. All time spent in an intensive training  
15 program which has been approved by the Board or its designee shall not be considered non-  
16 practice and does not relieve Respondent from complying with all the terms and conditions of  
17 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
18 on probation with the medical licensing authority of that state or jurisdiction shall not be  
19 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
20 period of non-practice.

21 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
22 months, Respondent shall successfully complete the Federation of State Medical Boards' Special  
23 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
24 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
25 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

26 Respondent's period of non-practice while on probation shall not exceed two (2) years.

27 Periods of non-practice will not apply to the reduction of the probationary term.

28 Periods of non-practice for a Respondent residing outside of California will relieve

1 Respondent of the responsibility to comply with the probationary terms and conditions with the  
2 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
3 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or  
4 Controlled Substances; and Biological Fluid Testing..

5 14. COMPLETION OF PROBATION. Respondent shall comply with all financial  
6 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
7 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
8 be fully restored.

9 15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
10 of probation is a violation of probation. If Respondent violates probation in any respect, the  
11 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
12 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
13 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
14 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
15 the matter is final.

16 16. LICENSE SURRENDER. Following the effective date of this Decision, if  
17 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
18 the terms and conditions of probation, Respondent may request to surrender his or her license.  
19 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
20 determining whether or not to grant the request, or to take any other action deemed appropriate  
21 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
22 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its  
23 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
24 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
25 application shall be treated as a petition for reinstatement of a revoked certificate.

26 17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
27 with probation monitoring each and every year of probation, as designated by the Board, which  
28 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of


1 California and delivered to the Board or its designee no later than January 31 of each calendar  
2 year.

3  
4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Dennis R. Thelen, Esq. I understand the stipulation and the effect  
7 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement  
8 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
9 Decision and Order of the Medical Board of California.

10  
11  
12 DATED:

4/10/19

  
NICHOLAS EUGENE NOMICOS, M.D.  
Respondent

14  
15  
16 I have read and fully discussed with Respondent Nicholas Eugene Nomicos, M.D. the terms  
17 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
18 Order. I approve its form and content.

19  
20  
21 DATED:

4-5-19

  
DENNIS R. THELEN, ESQ.  
Attorney for Respondent

1 ENDORSEMENT

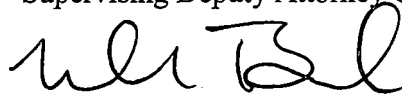
2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
3 submitted for consideration by the Medical Board of California.

4 Dated:

4/22/2019

Respectfully submitted,

6 XAVIER BECERRA  
7 Attorney General of California  
8 STEVE DIEHL  
9 Supervising Deputy Attorney General



10 MICHAEL C. BRUMMEL  
11 Deputy Attorney General  
12 *Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2016-026720**

1 XAVIER BECERRA  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 MARA FAUST  
Deputy Attorney General  
4 State Bar No. 111729  
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Facsimile: (916) 327-2247  
9

10 *Attorneys for Complainant*

11  
12 **BEFORE THE**  
13 **MEDICAL BOARD OF CALIFORNIA**  
14 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

16 **Nicholas Eugene Nomicos, M.D.**  
17 14425 Spyglass Cir.  
Chowchilla, CA 93610-7907

18 Physician's and Surgeon's Certificate No. A 49055,  
19 Respondent.

Case No. 800-2016-026720

**A C C U S A T I O N**

20  
21 Complainant alleges:

22 **PARTIES**

23 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official  
24 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
25 Affairs ("Board").

26 2. On or about January 7, 1991, the Medical Board issued Physician's and Surgeon's  
27 Certificate No. A 49055 to Nicholas Eugene Nomicos, M.D. ("Respondent"). That Certificate

28 ///

**FILED**  
**STATE OF CALIFORNIA**  
**MEDICAL BOARD OF CALIFORNIA**  
**SACRAMENTO** *Oct. 3 2018*  
**BY** *SARAH POSTER* **ANALYST**

1 was in full force and effect at all times relevant to the charges brought herein and will expire on  
2 May 31, 2020, unless renewed.

3 3. This Accusation is brought before the Board, under the authority of the following  
4 laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
5 indicated.

6 4. Section 2227 of the Code provides, in pertinent part, that a licensee who is found  
7 guilty under the Medical Practice Act may have his or her license revoked, suspended for a period  
8 not to exceed one year, placed on probation and required to pay the costs of probation monitoring,  
9 or such other action taken in relation to discipline as the Board deems proper.

10 5. Section 2234 of the Code states, in pertinent part:

11 "The board shall take action against any licensee who is charged with unprofessional  
12 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
13 limited to, the following:

14 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
15 violation of, or conspiring to violate any provision of this chapter.

16 "(b) Gross negligence.

17 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
18 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
19 the applicable standard of care shall constitute repeated negligent acts.

20 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for  
21 that negligent diagnosis of the patient shall constitute a single negligent act.

22 "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
23 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
24 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
25 applicable standard of care, each departure constitutes a separate and distinct breach of the  
26 standard of care.

27 "....

28 ///

1       “(f) Any action or conduct which would have warranted the denial of a certificate.

2       “...”

3                               **FIRST CAUSE FOR DISCIPLINE**

4                               **(Patient A-Gross Negligence)**

5       6.     Respondent’s license is subject to disciplinary action under section 2234, subdivision  
6     (b) of the Code, in that he was grossly negligent in his care and treatment of Patient A. The  
7     circumstances are as follows:

8       7.     On or about February 28, 2014, through April 6, 2016, respondent undertook the care  
9     and treatment of patient A<sup>1</sup>, a then 57-year-old female as her primary care physician at Camarena  
10    Health. Patient A had a history of gastric bypass and a long history of narcotic use. The patient  
11    had recent complaints of ankle and back pain following the fracture of her ankle. Prior to  
12    respondent’s care of this patient, in January 2013. Dr. B., through his PA, attempted to wean  
13    patient A off Hydrocodone and Ativan<sup>2</sup> and referred patient A for an orthopedic consultation  
14    relating to the issue of possible removal of ankle hardware. Patient A never completed that  
15    orthopedic consultation. In September 2013, Dr. B gave the patient a referral for pain  
16    management which patient A did not follow through on. On or about January 22, 2014, patient A  
17    was again referred for an orthopedic consultation and the patient did not follow-through.

18     8.     On or about February 28, 2014, respondent diagnosed Patient A as having “Arthritis,  
19    traumatic Arthritis” as a result of the patient’s complaint of back and hip pain and of having  
20    difficulty in walking. Respondent prescribed Hydrocodone-Acetaminophen<sup>3</sup> 10/325 mg. four  
21    times a day and Lorazepam<sup>4</sup> 1 mg. at bedtime. Patient A had another three appointments, with

22               <sup>1</sup> All patients’ identities will be fully disclosed during discovery.

23               <sup>2</sup> Ativan, a brand name for lorazepam is a benzodiazepine which is a Schedule IV controlled substance  
24               pursuant to CFR Title 21 section 1308.14(c), and a dangerous drug pursuant to Business and Professions Code  
25               section 4022.

26               <sup>3</sup> Hydrocodone with acetaminophen (APAP) – Generic name for the drugs Vicodin, Norco, and Lortab.  
27               Hydrocodone with acetaminophen is classified as an opioid analgesic combination product used to treat moderate to  
28               moderately severe pain. Prior to October 6, 2014, Hydrocodone with acetaminophen was a Schedule III controlled  
                  substance pursuant to Code of Federal Regulations Title 21 section 1308.13, subdivision (e).<sup>3</sup> Hydrocodone with  
                  acetaminophen is a Scheduled II controlled substance pursuant to Code of Federal Regulations Title 21 section  
                  1308.12, California Health and Safety Code section 11055, subdivision (b), and is a dangerous drug pursuant to  
                  Business and Professions Code section 4022.

<sup>4</sup> Lorazepam – This is an anti-anxiety medication in the benzodiazepine family. Lorazepam is a Schedule

1 respondent and/or his Furnishing Nurse Practitioner A, from March through May 2014, where the  
2 patient complained of joint and knee pain and urinary incontinence. No urology consultation was  
3 ordered despite two different appointments in April and May where the patient complained about  
4 increased urinary incontinence.

5 9. Patient A had another ten appointments with respondent and/or his Physician  
6 Assistant B, with respondent's co-signature, from June through December 2014, complaining of  
7 headache back, neck and knee pain. Respondent diagnosed the patient as having arthritis and  
8 osteoarthritis and prescribed a variety of narcotic medications including Norco<sup>5</sup> 10/325, twice to  
9 four times daily, Percocet<sup>6</sup>, Hydrocodone-Ibuprofen 7.5/200 mgs., three times daily, Butrans  
10 patches, and Tramadol<sup>7</sup> 50 mgs., 3 times daily. Patient A was referred for an appointment with a  
11 pain management specialist on December 16, 2014, but patient A did not make it to the  
12 appointment. There is no documentation that patient A ever had a pain management consultation.  
13 On December 10, 2014, Respondent diagnosed Patient A as suffering from "Hypertension,  
14 Esophagitis, Hyperlipidemia, and Osteoarthritis".

15 10. On or about January 19, 2015, patient A presented for "Hypertension Review and  
16 Med Refills." The musculoskeletal examination was documented as normal. Respondent  
17 diagnosed patient A as having "Hypertension, Esophagitis, Hyperlipidemia and Osteoarthritis".  
18 On February 2, 2015, respondent documented that patient A was "Feeling fine, headache. No leg  
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20  
21 IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14, subdivision (c), Health  
22 and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code  
23 section 4022.

24 <sup>5</sup> Norco, a brand name for Hydrocodone with acetaminophen, is an opioid analgesic. Prior to Oct. 6, 2014,  
25 Norco was a Schedule III controlled substance pursuant to Code of Federal Regulations (CFR), Title 21, section  
26 1308.13(e). Thereafter, Norco was re-classified as a Schedule II controlled substance pursuant to CFR, Title 21,  
27 section 1308.12 and California Health and Safety Code section 11055(b) and a dangerous drug pursuant to California  
28 Business and Professions Code section 4022.

<sup>6</sup> Percocet, a brand name for Oxycodone with acetaminophen is a Schedule II controlled substance pursuant  
to CFR, Title 21 section 1308.12 and Health and Safety Code section 11055(b) and a dangerous drug pursuant to  
Business and Professions Code section 4022.

<sup>7</sup> Tramadol - Generic name for the drug Ultram. Tramadol is an opioid medication. Tramadol is a Schedule  
IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14, subdivision (b), California  
Health and Safety Code 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code  
section 4022.

1 pain". The physical examination did not document the presence of musculoskeletal or neurological  
2 abnormalities. Respondent's assessment was "Lumbago with sciatica, fatigue, and hypertension".

3 11. On February 27, 2015, patient A returned with a complaint of "pain to back". Patient  
4 A indicated lower back tenderness on palpation along the thoracolumbar spine. Patient A was  
5 prescribed Norco 10-325 mg. four times a day and no imaging studies were ordered. On March  
6 20, 2015, the prescription of Norco for patient A was reduced to 7.5/325 mg. four times a day.  
7 On April 9, 2015, patient A returned complaining of worsening back pain and again had  
8 tenderness to palpation of the thoracolumbar spine. The assessment for the patient was bariatric  
9 surgery status, chronic strained lumbosacral ligament, lumbar disc degeneration, lumbar  
10 radiculopathy and sciatica. No imaging studies were ordered. In fact, respondent did not order  
11 any imaging studies for this patient until February 24, 2016.

12 12. On or about April 20, 2015, the patient was seen by Physician Assistant U, with a co-  
13 signature from respondent. Patient A reported lower back pain that was causing her to not be able  
14 to sleep. The patient also reported swelling with bruising of her right ankle that was in chronic  
15 pain. The patient further reported that her back pain had not changed. Physician Assistant's  
16 neurological examination of the patient's lower extremities was normal with no spine percussion  
17 tenderness. The patient was prescribed Tramadol 50 mg three times a day for pain.

18 13. On or about May 21, 2015, patient A returned to respondent's office complaining of  
19 back pain which had not changed, and which was causing her to not be able to sleep.  
20 Examination by respondent of his patient revealed lower back tenderness on palpation with spine  
21 percussion tenderness. The prior Hydrocodone prescription was increased from 7.5/325 mg. to  
22 10/325 mg. three times a day. On or about August 18, 2015, the patient returned to see  
23 respondent reporting tailbone pain and was seen on examination to have an abnormal gait and  
24 tenderness to palpation in the cervical spine and thoracolumbar spine. Respondent diagnosed the  
25 patient with "lumbar strain, cervical disc degeneration, lumbar radiculopathy and sciatica".

26 14. On or about September 2, 2015, patient A presented with a "cough and sore throat x  
27 yesterday" reporting a cough productive of sputum. On examination the patient's pharynx was  
28 red. The patient was diagnosed with sinusitis, allergic rhinitis and acute bronchitis and was

1 prescribed Azithromycin 5 day dose pack (an antibiotic), Promethazine DM, (cough syrup) and  
2 given an injection of Kenalog 40 mg IM, (a steroid). On or about October 1, 2015, respondent  
3 returned and reported to respondent no change in back pain but that the tenderness was again  
4 noted on palpation of the spine during the physical examination. The patient's weight on that day  
5 was 199 lbs. and she began losing weight thereafter as follows: December 1, 2015—189 lbs.;  
6 January 20, 2016--183 lbs.; January 28, 2016--181 lbs.; February 24, 2016--178 lbs.; March 9,  
7 2016--171 lbs.; March 23, 2016--170 lbs.; and March 30, 2016--166 lbs. In all Patient A lost a  
8 total of 33 lbs. in five months.

9 15. On or about December 1, 2015, patient A presented to respondent with "Back pains  
10 worsening". Examination revealed a ten-pound weight loss and tenderness on palpation of the  
11 hips and spine percussion. On or about January 20, 2016, the patient again came in complaining  
12 of "back pain". Respondent diagnosed the patient with radiculopathy lumbar region and  
13 unspecified osteoarthritis. This diagnoses was made by respondent without any radiographic  
14 evidence. On or about February 24, 2016 patient A returned to respondent for back pain and  
15 tooth pain from a broken tooth. Respondent ordered an x-ray of the lumbosacral spine. A five  
16 view lumbar spine x-ray was obtained on March 2, 2016, indicating loss of one-quarter normal  
17 anterior and mid-vertebral body height of the T12 and L2 vertebral bodies, moderate multilevel  
18 degenerative changes and mild degenerative changes in the sacroiliac joints.

19 16. On or about March 9, 2016, the patient returned to see respondent for back pain  
20 follow up. She reported persistent pain and denied weight loss. She complained of "joint pain,  
21 joint swelling, back pain, stiffness, arthritis, loss of strength and muscle aches." Respondent made  
22 a diagnosis of sciatica and radiculopathy, lumbar region and ordered the administration of  
23 Ketorolac 30 mg. Im (for treatment of pain and inflammation) and refilled prescriptions for Norco  
24 and Soma. There is no notation that the results from the x-ray ordered on February 24, 2016, were  
25 reviewed. On or about March 23, 2016, the patient returned to respondent's office for follow up  
26 on "back pain and x-ray results". Respondent continued to document a diagnosis of Sciatica and  
27 ordered the administered Kenalog 40 mg IM, a steroid. There is no notation that the results from  
28 the x-ray ordered on February 24, 2016, were reviewed.

1        17. On or about March 30, 2016 patient A was seen by Physician Assistant U, for a  
2 complaint of back pain for the past three months. The patient was noted to have a twenty-three-  
3 pound weight loss in three months "without trying to lose weight". The patient reported "concern  
4 with fatigue and weight loss" and "a complaint of inability to empty bladder with unusual urinary  
5 color". Laboratory studies were ordered and patient is instructed to follow-up with respondent.  
6 The laboratory studies were essentially normal with the exceptions of a hemoglobin of 10.6 gm  
7 (low) and a hematocrit of 34.8 percent (low) with a MCV<sup>8</sup> blood test of 78 (high), which implies  
8 anemia. On or about April 8, 2016, patient returned to respondent for "follow-up on back pain  
9 and lab results". The history noted that the back pain was getting worse and on examination  
10 respondent found that the patient had joint tenderness, and decreased range of motion.  
11 Respondent's diagnoses for patient A was again sciatica and radiculopathy lumbar region. There  
12 was no documented review or discussion of the laboratory studies ordered on the last visit, nor  
13 was there comment from respondent on the patient's rapid weight loss. Respondent denied being  
14 aware of the March 30, 2016, visit in his deposition. This is the last visit between this patient and  
15 respondent.

16        18. Respondent's care and treatment of patient A was grossly negligent in the following  
17 respects in that patient A had back pain that did not improve with "red flag" signs of urinary  
18 incontinence, weight loss, persistent spinal tenderness, and persistent complaints of pain without  
19 an identified source yet no laboratory studies and imaging studies were ordered by respondent  
20 particularly in the period of February 27, 2015, through February 23, 2016. Respondent's failure  
21 to obtain imaging studies and conducting further evaluation with persistent back pain and "red  
22 flag" signs and symptoms for a two-year period constitutes an extreme departure from the  
23 standard of care in violation of section 2234, subdivision (b) of the Code.

24        ///

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27 \_\_\_\_\_  
28        <sup>8</sup> MCV stands for mean corpuscular volume meaning that when the values is high the red blood cells are  
larger than normal.



1 age, without an MRI scan or other diagnostic evaluation to determine the cause of the low back  
2 pain constitutes a simple departure from the standard of care.

3 f. Given that respondent was patient A's primary care physician since February  
4 2014 through march of 2016 and the patient was routinely followed for vitamin B-12 injections  
5 due to a history of bypass surgery, and the patient had diagnoses of hypertension and  
6 hyperlipidemia, respondent's failure to order routine preventative laboratory studies, cancer  
7 screening (breast, cervical and colon), lipid screenings, diabetes mellitus screenings, and liver  
8 function tests (given the prescriptions of narcotics and benzodiazepines with acetaminophen)  
9 constitute a simple departure from the standard of care.

10 22. Combining the simple departures in paragraphs 21, subdivisions (a) through (f),  
11 above, in any combination, constitutes repeated negligent acts in violation of section 2234,  
12 subdivision(c), of the Code.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Patient B-Repeated Acts of Negligence)**

15 23. Respondent license is subject to disciplinary action under section 2234, subdivision  
16 (c), of the Code in that he was repeatedly negligent in his care and treatment of Patient B. The  
17 circumstances are as follows:

18 24. On or about April 28, 2014, at a medical appointment with respondent, patient B, a  
19 78-year-old female, reported that respondent grabbed her, kissed her on the cheek and used the  
20 "F-word" while in a physician examination room when patient came to receive a B-12 injection.

21 25. Complainant re-alleges paragraphs 7 through 18, and paragraph 21.

22 26. Respondent's care and treatment of patient B was negligent in that he used offensive  
23 language and/or kissed patient B without her permission and/or invaded her personal space and is  
24 a simple departure from the standard of care.

25 26. Combining the simple departure in paragraph 26 with any of the departures alleged in  
26 paragraph 25, above, constitutes repeated negligent acts in violation of section 2234, subdivision  
27 (c), of the Code.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Patient C-Incompetence)**

3 27. Respondent's license is subject to disciplinary action under section 2234, subdivision  
4 (d) of the Code, in that respondent demonstrated a lack of knowledge, experience, skill or training  
5 in his care and treatment of patient C. The circumstances are as follows:

6 28. Prior to August 2016, patient C was a patient of respondent's in 2014 and 2015 at  
7 Camarena Health in Madera County. On or about August 23, 2016, patient C, a 55-year-old  
8 female saw respondent for a unilateral headache of two weeks, with a left red eye. The patient  
9 complained of chest pain, cough, shortness of breath, nausea and vomiting, and vomiting blood.  
10 During the physical examination, respondent instructed the patient to stand up from the  
11 examination table she was sitting on and then respondent kissed her on the lips. During  
12 respondent's examination of patient C, he found there was pain with palpation on the left side of  
13 the patient's head. In addition, the patient's left eye conjunctiva had a watery discharge.  
14 Respondent noted that this patient had a left mouth droop and a deviation of the tongue to the left.  
15 The cardiopulmonary examination was normal. Respondent made a diagnoses of trigeminal  
16 neuralgia. Respondent had his Physician Assistant M.Q. or a PA student named J.H. inject  
17 patient C with Kenalog 40 mg./ml., (a steroid), intramuscularly in the left deltoid muscle.  
18 Respondent also prescribed to patient C, Prednisone 10 mg. (a steroid) twice a day for five days  
19 to be taken orally.

20 29. Records from the Madera Community Hospital, dated August 23, 2016, indicate that  
21 patient C was transported to the hospital via ambulance from Camarena Health for a reported  
22 seizure. There is no documentation in respondent's medical record for patient C about what led  
23 to the ambulance being called and patient C being transported to the hospital emergency room  
24 department.

25 30. Patient C returned to respondent's office on August 31, 2016, for follow-up on the  
26 irritation to the left eye. Patient C reported that the symptoms had resolved since "last visit/ER  
27 evaluation". No further history was obtained. Respondent's examination of the patient's head,  
28 lungs, heart, musculoskeletal and neurologic was noted as normal. Respondent diagnosed this

1 patient with major depressive disorder recurrent, unspecified, left trigeminal neuralgia and  
2 seizures "apparently due to medication changes/interactions".

3 31. On or about September 10, 2016, patient C returned to respondent for a physical  
4 examination and wellness visit. A glucose finger-stick of this patient showed slight elevation of  
5 124. At this visit, patient C reported that respondent greeted her with a kiss and a hug, and that he  
6 rubbed her back during the hug. Respondent confirmed that the hug and kiss did occur. Next  
7 respondent had this patient sit in an examination chair where respondent forced the patient's legs  
8 open with his hands placed on the patient's thighs in order for him to maneuver directly in front  
9 of the patient. Additionally, the patient reported that respondent made inappropriate comments of  
10 a sexual nature to her regarding preferred sexual positions and whether he could make house  
11 calls. Respondent confirmed that he made these comments.

12 32. Respondent's diagnosis of patient C having trigeminal neuralgia due to facial droop  
13 and deviation of the tongue demonstrates a lack of knowledge, education, training or experience  
14 in violation of section 2234, subdivision (d) of the Code as follows:

15 a. Trigeminal neuralgia affects the fifth cranial nerve, whereas facial droop and/or  
16 deviation of the tongue is not involved with that cranial nerve. Facial droop may involve the  
17 seventh cranial nerve or a brain lesion. Deviation of the tongue may involve the twelfth cranial  
18 nerve or a brain lesion. Respondent's lack of understanding of the above referenced anatomical  
19 distinctions constitutes incompetence.

#### 20 **FIFTH CAUSE FOR DISCIPLINE**

##### 21 **(Patient C-Repeated Acts of Negligence)**

22 33. Respondent's license is subject to disciplinary action under section 2234, subdivision  
23 (c), of the Code in that he was repeatedly negligent in his care and treatment of Patient C. The  
24 circumstances are as follows:

25 35. Complainant re-alleges paragraphs 28 through 32.

26 36. Respondent's care and treatment of patient A was repeatedly negligent in the  
27 following respects:

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1           a.     Respondent's action on August 23, 2016, of kissing patient C on the lips is a  
2 simple departure from the standard of care.

3           b.     Respondent's actions on September 10, 2016, of kissing, hugging, rubbing  
4 patient C's back as well as opening her legs by placing his hands on her thighs, separately and/or  
5 collectively constitute a simple departure from the standard of care.

6           c.     Respondent's inappropriate comments on September 10, 2016, of a sexual  
7 nature to her regarding preferred sexual positions and whether he could make house calls  
8 constitutes a simple departure from the standard of care.

9           d.     Respondent's failure to arrive at an appropriate differential diagnoses  
10 (including trigeminal neuralgia), without ordering an erythrocyte sedimentation rate and/or  
11 ordering an MRI or CT scan, along with respondent's failure to document further evaluation of  
12 patient's complaints of chest pain, shortness of breath, nausea, and vomiting blood collectively  
13 constitutes a simple departure from the standard of care.

14           e.     Respondent's treatment of patient C with steroids, (including Kenalog 40  
15 mg./ml. and Prednisone totaling 100 mg. orally over five days), on August 23, 2016, for a  
16 diagnoses of trigeminal neuralgia is a simple departure from the standard of care.

17           f.     On August 23, 2016, following administration of the steroid injection, patient C  
18 was transported to Madera Community Hospital by ambulance due to a reported seizure. There is  
19 no documentation in respondent's note nor in the Camarena Health medical record for patient C  
20 of the events that led to the ambulance being called and the patient's transport to the hospital  
21 emergency room and such failure by respondent to document this event is a simple departure  
22 from the standard of care.

23           g.     Respondent's failure to evaluate and manage patient C's seizure activity after  
24 diagnosing seizures on August 31, 2016, is a simple departure from the standard of care.

25           h.     Respondent's failure to counsel patient C on smoking cessation, failing to  
26 recommending screening for breast and colon cancer, and failing to obtain lipid tests and blood  
27 sugar tests as part of a wellness examination on September 10, 2016, is a simple departure from  
28 the standard of care.

1 37. Combining the simple departures in paragraphs 36, subdivisions (a) through (h),  
2 above, in any combination, constitutes repeated negligent acts in violation of section 2234,  
3 subdivision(c), of the Code.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Failure to Maintain Adequate and Accurate Records)**

6 38. Respondent's license is subject to disciplinary action under section 2266 of the Code,  
7 in that he failed to maintain adequate and accurate records. The circumstances are as follows:

8 39. Complainant re-alleges paragraphs 7 through 18, 21, 28 through 32, and 36.

9 40. Respondent failure to document various aspects of his care with patients A and C  
10 constitute a failure to maintain adequate and accurate records.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 41. Respondent's license is subject to disciplinary action under section 2234 of the Code,  
14 in that he committed general unprofessional conduct during the care and treatment of patients A,  
15 B, and C.

16 42. Complainant realleges paragraphs 7 through 18, 21, 28 through 32, and 36.

17 43. Respondent's conduct as described above during the care and treatment of patients A,  
18 B, and C, constitute general unprofessional conduct and subject his license to discipline.

19 **PRIOR HISTORY OF DISCIPLINE**

20 44. To determine the degree of discipline, if any, to be imposed on Respondent Nicholas  
21 Eugene Nomicos, M.D., Complainant alleges that on or about October 7, 2002, in a prior  
22 disciplinary action entitled *In the matter of the Accusation Against Nicholas Eugene Nomicos*,  
23 M.D. before the Medical Board of California, in Case Number 16-2001-125455, a public  
24 reprimand was issued against Respondent's license. That decision is now final and is  
25 incorporated by reference as if fully set forth herein.

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**PRAYER**

**WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 49055, issued to Nicholas Eugene Nomicos, M.D.;
2. Revoking, suspending or denying approval of Nicholas Eugene Nomicos, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Nicholas Eugene Nomicos, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: October 3, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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